

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1. STATE OF OKLAHOMA, ex rel. W. A.)
DREW EDMONDSON, in his capacity as)
ATTORNEY GENERAL OF THE STATE)
OF OKLAHOMA and OKLAHOMA)
SECRETARY OF THE ENVIRONMENT C.)
MILES TOLBERT, in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

No. 05-CV-0329 GKF-SAJ

1. TYSON FOODS, INC.)
2. TYSON POULTRY, INC.)
3. TYSON CHICKEN, INC.)
4. COBB-VANTRESS, INC.)
5. AVIAGEN, INC.)
6. CAL-MAINE FOODS, INC.)
7. CAL-MAINE FARMS, INC.)
8. CARGILL, INC.)
9. CARGILL TURKEY)
PRODUCTION, LLC.)
10. GEORGE'S, INC.)
11. GEORGE'S FARMS, INC.)
12. PETERSON FARMS, INC.)
13. SIMMONS FOODS, INC. and)
14. WILLOW BROOK FOODS, INC.)

Defendants.

**STIPULATED ORDER IMPLEMENTING PARTIES' AGREEMENT CONCERNING
DISCOVERY OF ELECTRONICALLY STORED INFORMATION ("ESI")**

I. Pursuant to this Court's Order Implementing Rules for Discovery of Electronically
Stored Information, entered December 5, 2006 (Dkt. # 996) (hereinafter, "ESI Order"),

the Parties stipulate to the following concerning the Discovery of Electronically Stored Information (“ESI”):

- A. The primary electronic discovery contact for each party is as follows (See ESI Order ¶ II(A)):

Party:	ESI Liaison: (<i>need to insert contact information</i>)
The State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma and Oklahoma Secretary of the Environment, s C. Miles Tolbert, in his capacity as Trustee for the Natural Resources for the State of Oklahoma (hereinafter referred to as “the State”)	Richard T. Garren rgarren@riggsabney.com <u>918-587-3161</u> J. Trevor Hammons trevor.hammons@oag.state.ok.us <u>405-522-2801</u>
Tyson Foods, Inc. Tyson Poultry, Inc. Tyson Chicken, Inc. Cobb-Vantress, Inc.	Michael R. Bond Michael.Bond@KutckRock.com <u>479-973-4200</u>
Cal-Maine Foods, Inc. Cal-Maine Farms, Inc.	Robert E. Sanders rsanders@youngwilliams.com
Cargill, Inc. Cargill Turkey Production, LLC	Dara D. Mann DMann@faegre.com Theresa N. Hill thill@rhodesokla.com <u>918-582-1173</u>
George’s, Inc. George’s Farms, Inc.	James M. Graves jgraves@bassettlawfirm.com <u>479-521-9996</u>
Peterson Farms, Inc.	Philip D. Hixon phixon@mcdaniel-lawfirm.com <u>918-382-9200</u>
Simmons Foods, Inc.	Vicki Bronson

	vbronson@cwlaw.com 479-582-5711
Willow Brook Foods, Inc.	Jennifer Stockton Griffin jgriffen@lathropgage.com 816-460-5705

- B. To the extent that ESI was not identified in a party's Initial Disclosures a party shall serve Supplemental Initial Disclosures to incorporate the identification of ESI no later than **April 15, 2007**; and
- C. Each Party shall be permitted to propound no more than **25 "ESI Interrogatories"** to any other party. "ESI Interrogatories" are herein defined as Interrogatories directed at technical issues relating to the storing, archiving, routine preservation, searching, and retrieving of ESI. "ESI Interrogatories" shall not include interrogatories directed at substantive issues relating to the content of ESI or other information except as necessary to identify ESI that is sought to be obtained.

II. Pursuant to Paragraph III of the ESI Order, the Parties are continuing to meet and confer, and agree to continue discussions regarding the following issues:

- A. During the Parties' individual and joint conferences to address the issues described in Paragraph I(B) of the ESI Order, the Parties described their preservation and retention policies as applied to ESI. The Parties further discussed the procedures employed to ensure the integrity of potentially

discoverable ESI. In particular, the State will make disclosures of any remaining Oklahoma agencies, offices and divisions which have or may have potentially discoverable ESI not previously addressed. The Parties have agreed to complete their disclosures relating to the methods employed to ensure the retention and integrity of potentially discoverable ESI by no later than **March 15, 2007**. (See ESI Order ¶ II(B));

- B. The Parties agree to continue discussion regarding the format in which ESI will be produced only as necessary to determine an appropriate and reasonable method to produce requested ESI. (See ESI Order ¶ II(C));
- C. The Parties agree to discuss as necessary to determine an appropriate and reasonable method to produce requested ESI, the types of ESI that are self-authenticating, and to the extent ESI is not self-authenticating, the methods by which the Parties may authenticate ESI for purposes of admissibility produced by another party. (See ESI Order ¶¶ II(D) and (E));
- D. The Parties discussed methods for segregating and identifying ESI subject to privilege and other protections.

- 1. The court is not ordering the employment of a neutral, third party expert at this time.

- 2. The Parties agree to submit privilege logs regarding ESI in accordance with LCvR 26.4. The Parties will propose a Stipulated Order for Non-Waiver of Privilege to address ESI that may be inadvertently produced or disclosed no later than April 20, 2007. In the event, the

Parties cannot agree, the Parties shall include the proposed alternative language of each side by April 20, 2007.

- E. The Parties agree to defer for further discussion methods for allocating costs of production of various types of ESI from various systems. (See ESI Order ¶ II(G)); and
- F. As described in Paragraph I(A) of the ESI Order, the State will conduct an initial conference with Defendants to address the issues set forth in Paragraph I(B)(1-23) of the ESI Order regarding additional State agencies divisions, and offices not previously addressed no later than **April 15, 2007**.

III. Nothing in this Order is intended to address or resolve any specific request for ESI or to express any opinion as to whether any particular piece or group of ESI is properly discoverable under the Federal Rules of Civil Procedure. The Court will consider such matters, if necessary, in the context of specific discovery requests and responses.

IV. ALL PARTIES SHALL BE PREPARED TO DISCUSS ANY UNRESOLVED ISSUES REGARDING THE PRODUCTION OF ESI INCLUDING EACH OF THE ITEMS SET FORTH IN THE COURT'S ESI ORDER FILED DECEMBER 5, 2006 (Dkt.s #996) AT THE HEARING CURRENTLY SET FOR APRIL 27, 2007 AT 9:30 A.M. ON THE CARGILL DEFENDANTS' MOTION TO COMPEL.

- v. If there are any other unresolved issues that could be heard on short notice, the parties may move that they be added for hearing at the April 27, 2007 hearing.

IT IS SO ORDERED THIS 6th DAY OF APRIL, 2007.


Sam A. Joyner
United States Magistrate Judge